

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526
Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: 202-828-2290

July 17, 1996

RECEIVED

JUL 17 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

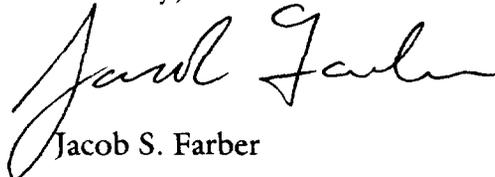
Re: CC Docket 92-77

Dear Mr. Caton:

Enclosed for filing please find an original and nine copies of the Comments of Communications Central Inc. ("CCI") in response to the Second Further Notice of Proposed Rulemaking, FCC 96-253 (June 6, 1996) in the above-captioned proceeding. Due to time exigencies, CCI is filing its Comments with a facsimile signature. It will file an executed original tomorrow. At that time CCI will also file the required two additional copies and an electronic copy with the Common Carrier Bureau.

If you have any questions, please contact the undersigned counsel for CCI at the direct dial telephone number noted above.

Sincerely,


Jacob S. Farber

JSF/pmd
Enclosures

No. of Copies rec'd
List A B C D E

019

598 Madison Avenue • New York, New York 10022-1614

Tel (212) 832-1900 • Fax (212) 832-0341

<http://www.dsno.com>

DOCKET FILE COPY ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 17 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Billed Party Preference for)
InterLATA 0+ Calls)

CC Docket No. 92-77

**COMMENTS OF COMMUNICATIONS CENTRAL INC. TO
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

Communications Central Inc.
1150 Northmeadow Parkway
Suite 118
Roswell, GA 30076

July 17, 1996

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communication: Central Inc.

CC Docket No. 92-77
Filed July 17, 1996

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SUMMARY 2

III. DISCUSSION 3

 A. Billed Party Preference is Not a Viable Option
 In the Payphone Services Marketplace 3

 B. Consumers Have Adequate Information And
 Safeguards Available Today 5

 1. TOCSIA Currently Ensures Access to the Caller's
 Preferred Carrier and Callers are Exercising their Choice 5

 2. TOCSIA Posting and Branding Requirements are Effective in
 Providing Consumers with all Necessary Information 6

 3. The Commission has Existing Measures Under TOCSIA to Remedy any
 Perceived Problems with Operator Services Rates at Payphones 8

 4. Aggregators Base Presubscription Decisions
 on Multiple Criteria, Not on Commission Payments Alone 9

 C. If Necessary, Appropriate Rate Benchmarks Have Previously Been Proposed 12

 1. The CompTel Coalition Benchmark Proposals Best Reflect
 Consumer Expectations In Operator Service Calling 12

 2. If Coalition Benchmarks are Rejected, an Additional
 Price Margin is Reasonable and Justifiable 14

 D. If Benchmarks are Adopted, Rate Disclosures Should Only Apply to Calls
 Exceeding Such Benchmarks and Should be Based on a Representative Call 17

 E. The Commission Must Provide Fair Compensation
 for Payphone Service Providers in Conjunction with any Action on Rates 19

 1. The Commission has Acknowledged the Necessary Balance
 Between the Needs of Callers and Payphone Service Providers 19

IV. CONCLUSION 20

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77

Filed July 17, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)

)

Billed Party Preference for)
InterLATA 0+ Calls)

)

)

)

CC Docket No. 92-77

**COMMENTS OF COMMUNICATIONS CENTRAL INC.
TO SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

I INTRODUCTION

Communications Central Inc. ("CCI") respectfully submits its comments in response to the Federal Communications Commission's ("Commission's") Second Further Notice of Proposed Rulemaking, FCC 96-253, released June 6, 1996 in the above captioned docket (the "Notice").

CCI is the second largest competitive payphone service provider ("PSP") in the country, owning and operating over 26,000 payphones and inmate phones in 41 states and the District of Columbia.¹ The company has been an active participant in the payphone marketplace since 1986 and serves a broad range of government, corporate and independent accounts. CCI is a publicly-held corporation whose stock is traded on the Nasdaq exchange.

¹ Of the 26,000 phones, the Company currently operates approximately 5300 inmate phones in over 500 confinement facilities located in 35 states through its wholly-owned subsidiary, InVision Telecom, Inc. InVision has filed separate comments in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION**Comments of Communications Central Inc.****CC Docket No. 92-77****Filed July 17, 1996**

CCI is a member of the American Public Communications Council, Inc. ("APCC"), the national trade association of the independent payphone industry. CCI's comments herein are limited to certain issues raised in the Notice and relate only to its public payphone operations. CCI adopts the APCC's comments in this proceeding to the extent they are consistent with CCI's comments, as well as the APCC's comments on issues not specifically addressed in the comments below.

II. SUMMARY

The clear weight of the evidence proves that Billed Party Preference ("BPP") will be extremely expensive to implement, and any alleged additional benefits beyond what the Telephone Operator Consumer Services Improvement Act of 1990 ("TOCSIA") requires remain questionable at best. The Commission should renew its focus on TOCSIA to resolve remaining operator service provider ("OSP") rate issues. As a result of TOCSIA, callers have adequate information and safeguards available today, including posting, branding, and rate quotes on request, to make an informed choice regarding the use of a payphone's presubscribed carrier. Therefore, BPP is unnecessary and should be eliminated as an alternative in addressing operator service rate issues in the payphone services marketplace.

Should the Commission determine that rate benchmarks are necessary, the CompTel coalition benchmarks best reflect consumer expectations in operator assisted calling. At a minimum, such benchmarks must include a reasonable and compensable additional margin above

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

the average of the top three carriers' rates. Oral disclosures should only apply to calls exceeding the benchmarks. Finally, the Commission must act in accordance with balancing the need of fair rates for callers with the need of competitive PSPs to be fairly compensated for each call made from their payphones. Only in this manner can the public interest best be served by ensuring the widespread deployment of payphones for public use and ensuring that callers' rate expectations are met when using a phone's presubscribed carrier.

III. DISCUSSION**A. BPP Is Not a Viable Option In the Payphone Services Marketplace**

The Commission has previously recognized that the evidence of record proves that the cost of BPP "would likely be quite substantial" and concluded that it should adopt the "modified combination of proposed alternatives to BPP" to adequately address its concern over excessive operator services rates being charged by certain providers.² CCI strongly supports adoption of an alternative to BPP because BPP is not the solution for resolving operator services rate issues in the payphone services marketplace. In reality, callers have been receiving a key benefit of BPP for several years -- the assurance of reaching their preferred long distance carrier at payphones as required by TOCSIA -- without shouldering the exorbitant costs of its implementation.

As early as 1992, in its final report on TOCSIA, the Commission recognized that

²Notice at 4.

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77
Filed July 17, 1996

consumers were actively using access codes to reach their carriers of choice. "Our analysis of consumer behavior in the marketplace for operator service demonstrates that consumers are aggressively taking advantage of these opportunities. For example, for 1991, approximately one-third of all revenues from 'away-from-home' calls were derived from dial-around traffic."³ The Commission also forecasted that "by the end of 1992 nearly one half of 'away-from-home' revenues [would] represent dialed around traffic."⁴

To date, the level of dial-around traffic has continued to soar, eliminating any need for BPP in the payphone services environment. Attachment A reflects the tremendous and continuing decline of operator services revenues from CCI's payphones during the past three years. Even though these revenues reflect the amount of dial-around compensation received by CCI, the steady decline ranges from a per-phone high of \$161.73 in August 1993 to a low of \$57.96 in February of this year. This decline is directly attributable to the growing number of dial-around calls which prevent revenues from being generated by CCI's presubscribed carriers at its payphones, resulting in fewer "0+" calls to which BPP would apply.

The clear weight of the evidence in this proceeding proves that BPP will be extremely expensive to implement, and any alleged additional benefits beyond what TOCSIA requires

³Final Report on the Telephone Operator Consumer Services Improvement Act of 1990 at 30-31.

⁴Common Carrier Bureau, Industry Analysis Division Report, Operator Services Market (dated November 13, 1992) at 12.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

remain questionable at best. As the Commission has recognized, callers today have the benefit of access to their preferred long distance carrier without the necessary costs of BPP implementation. Moreover, due to "dial-around calling" by consumers, there are fewer and fewer "0+" calls being completed from payphones for which BPP would apply. In sum, the costs of BPP greatly exceed any additional benefits which might be gained from its implementation. The time has come to eliminate BPP as an alternative in addressing operator service rate issues in the payphone services marketplace.

B. Consumers Have Adequate Information And Safeguards Available Today**1. TOCSIA Currently Ensures Access To The Caller's****Preferred Carrier And Callers Are Exercising Their Choice**

As addressed above, the Commission has recognized that TOCSIA's key requirement -- the consumer's ability to reach the carrier of choice -- is available to consumers today.⁵ In fact, the Commission has already found that "to the extent consumers can, and do, exercise the option of using access codes to reach their carrier of choice, the presubscribed OSP's rates are essentially irrelevant. In short, [the] consumer's ability to exercise choice is the best regulator of OSP rates."⁶

⁵Report at 30.

⁶Report at 31.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

The record substantiates that consumers have existing protections under TOCSIA and are actively "dialing around" the presubscribed OSP carrier at payphones. In support of this assertion, Attachment B reflects that an average of almost 50 800-dialed access code calls per phone per month are made from a CCI payphone. The volume of these calls, such as 1-800-CALL-ATT and 1-800-COLLECT, has dramatically increased in recent years. Further, CCI's access code call data does not include 10XXX or 950 type calling that would substantially increase the total number of access code calls generated per payphone, for which little or no compensation is received. The Commission also agrees that its "unblocking and consumer information requirements have, for the most part, resulted in greatly enhanced consumer choice in the operator services market,"⁷ leading to a substantial increase in dial-around calling.

2. TOCSIA Posting and Branding Requirements Are Effective In
Providing Consumers With All Necessary Information

The Commission perceives that "many recognize that the problem [of excessive operator services rates] stems from a lack of adequate information for callers to make an informed choice."⁸ CCI believes this is not the case in the payphone services marketplace. Once again, TOCSIA provides the answer in furnishing the caller with sufficient information to make an

⁷Notice at 6.

⁸Notice at 9.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

informed decision regarding the use of a particular operator service provider at a payphone. The Commission has previously found that "the level of compliance with the posting and branding of TOCSIA and the Commission's rules is high."⁹ Further, the Commission noted that "informed consumer choice that these rules makes possible is the best means of ensuring that the rates consumers pay for interstate operator service calls are just and reasonable."¹⁰ CCI strongly agrees with this premise. Informed consumer choice has been the hallmark of the Commission's actions in the operator services arena, and the posting and branding requirements of TOCSIA related to payphone services have been extremely effective. However, the Commission notes a concern that the existing branding rule is "inadequate notice to prevent consumer surprise and dissatisfaction for a substantial number of calls."¹¹ CCI believes that existing TOCSIA branding requirements are adequate to prevent callers from being surprised for operator-assisted calls placed from payphones. Moreover, the marketplace has resoundingly proven that callers are exercising choice and reaching their preferred long distance carrier. If there is "consumer surprise and dissatisfaction" as the Commission alleges, it would be logical to expect a reduction of dial around calling at payphones. As the above CCI data proves, there has in fact been a substantial increase, indicating callers are not surprised and dissatisfied, but instead are quite pleased with the

⁹Report at 2.

¹⁰Id.

¹¹Notice at 7.

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77

Filed July 17, 1996

information available to them.

Further, though the Commission notes its belief that "many callers find dialing around for operator service calls to be burdensome and confusing,"¹² the evidence speaks strongly against such a conclusion. Instead, callers at payphones have verified that dialing around is neither burdensome nor confusing, and that the requirements of TOCSIA have been effective in ensuring consumers' choice of carriers. In fact, CCI has experienced a lower average level of complaints in the past several years as the posting and branding requirements, in concert with TOCSIA's carrier access mandates, have ensured that consumers can make an informed choice regarding either their use of the presubscribed carrier at the payphone or their selection of an alternative carrier.

3. The Commission Has Existing Measures Under TOCSIA To Remedy Any Perceived Problems With Operator Services Rates At Payphones

CCI believes that the Commission has adequate measures under TOCSIA and related enforcement powers to remedy any problems in operator services rates at payphones. For example, TOCSIA enables the Commission to require any OSP whose rates appear to be unjust to demonstrate that its rates and charges are reasonable and/or announce that its rates are available upon request at the beginning of each call.¹³ The Commission has previously issued actions on

¹²Id.

¹³47 U.S.C. Section 226 (h) (2).

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

this basis against certain competitive PSPs providing operator services and can continue to do so to address unjust and unreasonable charges.¹⁴

In addition, the Commission could also require local exchange companies not to bill for charges it deems unjust and unreasonable. Only calls complying with the benchmark rate established by the Commission would be billed to callers. Noncomplying calls could be returned to the applicable OSP for revision to the benchmark rate and resubmission to the LEC for billing. There is current precedent in the payphone services marketplace for "0+" intrastate calls made from competitive PSPs being rejected for rate non-compliance. In accordance with its tariff, Pacific Bell reviews billing reports and rejects any "0+" call which exceeds the benchmark rate for the type of call. All call records in excess of the benchmark are returned to the carrier. Thus, the Commission has a direct and effective mechanism to enforce compliance with any rate benchmarks through existing billing procedures.

4. Aggregators Base Presubscription Decisions On
Multiple Criteria, Not Commission Payments Alone

As the Commission recognized in its final report on TOCSIA, "as more callers dial-around presubscribed OSPs, aggregators will experience a decline in commission revenue. This will force

¹⁴E.g., In the Matter of Cherokee Communications, Inc., CC Docket No. 91-325, rel. Nov. 8, 1991 (Com. Car. Bur.); In the Matter of Ascom Autelca Communications, CC Docket No. 91-367, rel. Dec. 23, 1991 (Com. Car. Bur.).

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77

Filed July 17, 1996

OSP's to compete for aggregator contracts on the basis of factors that are of interest to the consumer such as rates and quality of service."¹⁵ In this Notice, however, the Commission alleges that aggregators have yet to focus more on caller benefits. As the Commission states, "[o]ne problematic aspect of the pre-TOCSIA operator services environment has remained. . . [m]any aggregators continue to base their presubscription decisions on the commissions that OSP's will pay them rather than on the rates and services that OSP's offer to callers."¹⁶ CCI maintains that a positive shift has been occurring in the payphone services marketplace since TOCSIA was enacted. More and more competitive PSP's are basing their presubscription decisions on a number of factors which balance the needs of the caller, the location owner, and the payphone provider.

First, the payphone caller has enjoyed the ability to reach his or her preferred carrier from payphones. The identity of the subscribed carrier and a toll-free number for obtaining rate quotes and other information regarding that carrier's service are posted on the payphone. A notice of the caller's right to access a preferred carrier and the Commission's address are also posted for filing complaints, if necessary.

Second, location owners have become increasingly aware that the payphone is an extension of their business. From large convenience store chains to the "mom and pop" neighborhood gas station, location owners are demanding greater service and reasonable rates for

¹⁵Report at 30.

¹⁶Notice at 6.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

their patrons. The marketplace dynamics are such that commission payments from competitive PSPs are only one important element in their selection process. Location owners cannot afford disgruntled patrons who will not return to make purchases if they have an unfortunate experience using the payphone. Whether the issue is related to basic service problems or the use of a high-priced OSP, competitive PSPs must be mindful of the needs of the location owner, which extend well beyond the commissions to be paid.

Third, just as with location owners, competitive PSPs must attempt to balance the requirement of financial viability with the need for placement of payphones. There is no doubt that commission payments received from presubscribed OSPs has been, and continues to be, an important element in CCI's ability to deploy additional payphones. Revenues from "0+" calls are essential to CCI's and other competitive PSPs' payphone operations to counter fundamental financial and operational inequities which remain unresolved by regulatory authorities. As more callers "dialed around" the payphone's presubscribed carrier and little or no compensation was associated with these dial-around calls, competitive PSPs were forced to raise rates on the few remaining "0+" calls from their phones. In addition, the significant surge in "800 subscriber calling" was substantially increasing the number of calls for which competitive PSPs were not compensated.

However, given the continuing decline in "0+" calls from its phones, the relative importance of OSP commissions has been reduced in comparison to other factors which include caller satisfaction, location owner demands, and the need for fair compensation for all calls placed

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

from competitive payphones. As the country's second largest competitive payphone provider, CCI has effectively responded to the needs of its users and location owners. Callers and location owners alike demand a high level of service quality and expect fair treatment with regard to call charges. Neither CCI, nor other competitive PSPs, can afford to allow its presubscribed carrier to charge exorbitant OSP rates and remain in a positive partnership with its customers -- callers and location owners alike.

It is clear that, in the current payphone service marketplace, commission payments and the needs of the caller, the location owner, and the competitive PSP have become significant factors in determining whether a payphone will be placed and maintained. Commission payments are not the overriding element on which presubscription decisions for competitive payphones are based.

C. If Necessary, Appropriate Rate Benchmarks Have Previously Been Proposed

1. The CompTel Coalition Benchmark Proposals Best Reflect

Consumer Expectations In Operator Service Calling

Should the Commission decide that additional protections are required for the use of a payphone's presubscribed operator service provider, the record contains a rate benchmark proposal which is simple and reasonable for the calling public. CCI supports the CompTel coalition benchmark rates as the appropriate levels to be applied to OSP calls and believes that the

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

proposed benchmarks most comport with the expectations of callers.¹⁷ A copy of the CompTel coalition proposed rate benchmarks are attached to these comments for reference as Attachment C. Moreover, CCI believes that the CompTel benchmarks are most appropriate because they are not based on the top three carriers' rates, which are predicated on those carriers' specific costs and economies of scale.

In the Notice, the Commission states its tentative conclusions regarding the appropriate level of rate benchmarks:

[The] vast majority of consumers use residential presubscribed lines or a calling card of one of the three largest interexchange carriers in terms of annual toll revenues and therefore they generally expect rate levels to be within a comparable range of the rates charged by the three largest carriers. Therefore, we tentatively conclude that the most useful benchmark for protecting consumers against unexpectedly high OSP prices would be one set at a level approximating the average price charged by AT&T, MCI and Sprint.¹⁸

CCI applauds and supports the Commission's efforts to protect the public from unexpected long distance rates from payphones and agrees that any rate benchmarks to be implemented should reflect consumer expectations.¹⁹ However, CCI maintains that the level of consumer expectation cannot be readily defined by simply setting a rate benchmark at the average price of the top three carriers in market share. As the Commission has recognized, the vast

¹⁷Notice at 8.

¹⁸Notice at 14.

¹⁹Notice at 12.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

majority of commenters "support the concept of a benchmark to distinguish between OSP calls priced at rates that do not appear to raise any customer concerns and OSP calls priced at rates for which some additional regulatory oversight would appear to be appropriate."²⁰ The CompTel coalition's benchmark rates are a more reasonable, better defined and a justifiable measure of consumer expectations where concerns have been raised as measured in the number of complaints received by the Commission. In fact, the CompTel coalition rates were purposely "set below the general threshold rate level that prompted 'virtually all complaints' in a 'representative sampling of complaints to the FCC about operator service charges.'"²¹ CCI believes that these benchmarks best reflect consumer expectations and should be enacted if rate benchmarks are deemed necessary by the Commission.

2. If Coalition Benchmarks Are Rejected, An Additional Price Margin Is Reasonable and Justifiable

The Commission has requested comment on whether "an additional price margin, such as 15 percent, is reasonable and justifiable."²² Should the Commission reject the CompTel coalition proposed rate benchmarks, it is imperative that an additional margin be added to the average of

²⁰Notice at 9.

²¹Notice at 8.

²²Notice at 15.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

the top three interexchange carrier rates. Attachment D details CCI's existing financial position for its payphone division. If rate benchmarks are enacted with only a 15 percent additional margin, it is likely that all payphone service providers will be forced to use AT&T, MCI or Sprint as their presubscribed carrier, thus eliminating any meaningful choice of carrier for competitive PSPs and customers. CCI believes that even the Ameritech proposal of 120 percent of the highest of the three largest carriers' rates is not sufficient as an additional margin to maintain the existing level of payphone service.

Unfortunately, during the first six months of 1996, CCI was forced to remove over 1,000 payphones because they could not be profitably maintained in the current negative economic environment precipitated by the continuing inequities in the payphone service marketplace. More CCI payphones are threatened with removal due, in great part, to the dramatic impact of the competitive PSPs' necessary reliance on "0+" calls and the continuing reduction in these calls due to dial-around calling, much of which is currently uncompensated. This necessary reliance on "0+" call revenue has led to a competitive payphone market in which the vast majority of providers would be forced to reduce payphone service if only a 15 to 20 percent margin above the top three carriers' rates were allowed by the Commission. This is readily apparent from the attached CCI data.

Competition in the operator service marketplace has previously been lauded by the Commission in its final report on TOCSIA:

... [W]e find that competitive entry in the operator service marketplace

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

encourages the development and deployment of new and improved operator services . . . We further find that competitive entry encourages increased availability of payphones in previously underserved areas.

While CCI and other competitive PSPs have placed payphones in previously underserved areas in the public interest, rate benchmarks set at levels closely approximating dominant carrier rates, without a reasonable additional margin, will reduce payphone availability due to the resulting reduction in commissions paid to competitive PSPs. Despite the Colorado PUC Staff's assertion that the top three carriers' "rates comfortably exceed the cost of providing service, other than commissions and pass-through surcharges,"²³ marketplace realities dictate that commission payments are essential to effectively competing in today's payphone services marketplace. Attachment D factually states the current negative financial position of CCI's payphone division, which reflects CCI's movement from profitability to a net loss of approximately \$13.00 per payphone per month. The Commission's institution of a margin constraint on "0+" calls near dominant carrier rate levels would further worsen CCI's situation.

Moreover, CCI believes that such low rate benchmarks would remove any significant negotiating leverage with OSPs and would force virtually all providers to use one of the three largest carriers as its presubscribed OSP for its payphones. This would, in turn, increase the already tremendous financial pressures on competitive PSPs and lead to a reduction in payphone availability. Such a reduction in payphone service is inconsistent with the goals stated in Section

²³Report at 27.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Comments of Communications Central Inc.

Filed July 17, 1996

276 of the Telecommunications Act of 1996, which requires the Commission to promulgate regulations "to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public."²⁴

Should the Commission reject the CompTel coalition rate benchmark proposal, an additional price margin above the top three carriers' rates is not only reasonable and justifiable, but essential. However, this additional margin must be greater than the 15 or 20 percent proposed in the Notice for CCI to maintain its existing level of payphone service to the calling public.

D. If Benchmarks Are Adopted, Rate Disclosures Should Only Apply To Calls Exceeding Such Benchmarks and Should Be Based on A Representative Call

CCI agrees with the Commission's tentative conclusion that it should require oral disclosure of rates which are in excess of a benchmark, if application of such a benchmark is deemed necessary.²⁵ Any rate disclosure requirement should apply equally to any carrier who exceeds the benchmarks as designated by the Commission.

Further, any oral disclosure required of OSPs to "inform consumers of the total charges for which they would be liable. . .if those charges, including any and all surcharges, exceed the

²⁴47 U.S.C. Section 276 (b) (1).

²⁵Notice at 20.

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77
Filed July 17, 1996

Comments of Communications Central Inc.

benchmark²⁶ should be based on a representative or average call. CCI supports the Commission's alternative that "consumers receive adequate information for identifying an OSP if that OSP orally disclosed the highest amount that it might charge the caller for a domestic call lasting seven minutes (which appears to be the average length of a 0+ call)."²⁷ Such an alternative to offering exact rate quotes more reasonably balances the costs associated with the disclosures with the perceived benefits that callers can expect from obtaining this information.

CCI, however, disagrees with the Commission's position that, while the disclosure requirement may be consistent with TOCSIA's requirement that OSPs identify themselves, "few consumers can truly distinguish smaller OSPs from larger, better known OSPs, other than by price."²⁸ TOCSIA rules mandating branding and posting requirements have enjoyed broad-based compliance and have informed callers of the OSP's identity. In addition, a toll free number is also required and available for callers to obtain rate and other information.²⁹ Thus, if callers had any doubt from the posting of the carrier's identity and the oral branding of the carrier, they could easily obtain additional information at no charge. Callers can distinguish OSPs today based on the information currently available to them. However, should the Commission decide that additional

²⁶Id.

²⁷Id.

²⁸Id.

²⁹47 U.S.C Section 226.

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77
Filed July 17, 1996

rate disclosures are appropriate, such disclosures should be based on representative or average rates as described above.

E. The Commission Must Provide Fair Compensation For Payphone Service Providers In Conjunction With Any Action On Rates

1. The Commission Has Acknowledged the Necessary Balance Between The Needs Of Callers and Payphone Service Providers

CCI believes that the Commission sent a strong signal by releasing its proposal regarding operator services rates on the same day as the notice of proposed rulemaking to implement the payphone-specific provisions of the Telecommunications Act of 1996. Specifically, CCI concludes that the Commission desires to balance the needs of callers with those of the competitive PSP industry. In doing so, the Commission must ensure fair compensation for all calls made from payphones, including "0+" calls.

Because of the industry's necessary reliance on "0+" calls and the explosive growth of dial-around and other similar calls for which little or no compensation is received, competitive PSPs had little choice but to raise rates on the few remaining "0+" calls generated at their payphones. Unless each call from a payphone bears its fair share of cost and is fairly compensated, the industry cannot change this reliance and remain in business.

This crucial industry need for fair compensation for every call must necessarily be balanced with the need for callers' expectations to be met when using the presubscribed carrier at

FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 92-77
Filed July 17, 1996

payphones. Commission action to mandate reasonable and compensatory rate benchmarks which meet consumer expectations can effectively balance the needs of the parties only if compensation for each and every call is provided to ensure the widespread deployment of payphones for public use in furtherance of the Telecom Act's goals.

CCI strongly believes that any Commission determination to set rate benchmarks and require oral disclosures in the instant docket must be effective no earlier than the implementation of the final decisions in Docket 96-128 which implements the payphone reclassification and compensation provisions of the Telecom Act. The Commission can effectively balance the inseparable issues of fair compensation for competitive PSPs and fair rates for callers only by coordinating its actions in these dockets. Because receipt of fair compensation is essential to CCI's financial viability and, therefore, to its ability to deploy the highest quality public communications services to the general public in furtherance of the Telecom Act's goals, callers will be benefitted by the greater availability of CCI payphones from which they can receive fair operator services rates. Any rate benchmark or oral disclosure requirement, absent the receipt of fair compensation for every call from payphones, will be debilitating.

IV. CONCLUSION

The Commission must acknowledge two crucial concepts: (1) BPP is not a viable alternative to resolve rate issues in the payphone services marketplace and must be eliminated from consideration, and (2) a balance must occur between the need for fair operator services rates

FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-77

Filed July 17, 1996

Comments of Communications Central Inc.

for callers from payphones and the critical industry need for fair compensation for every call made from the phone. Only in this manner can the Commission adequately address the necessary issues in promoting a greater availability of payphones for public use which ensure reasonable operator services charges for consumers.

Respectfully submitted,

COMMUNICATIONS CENTRAL INC.

BY:

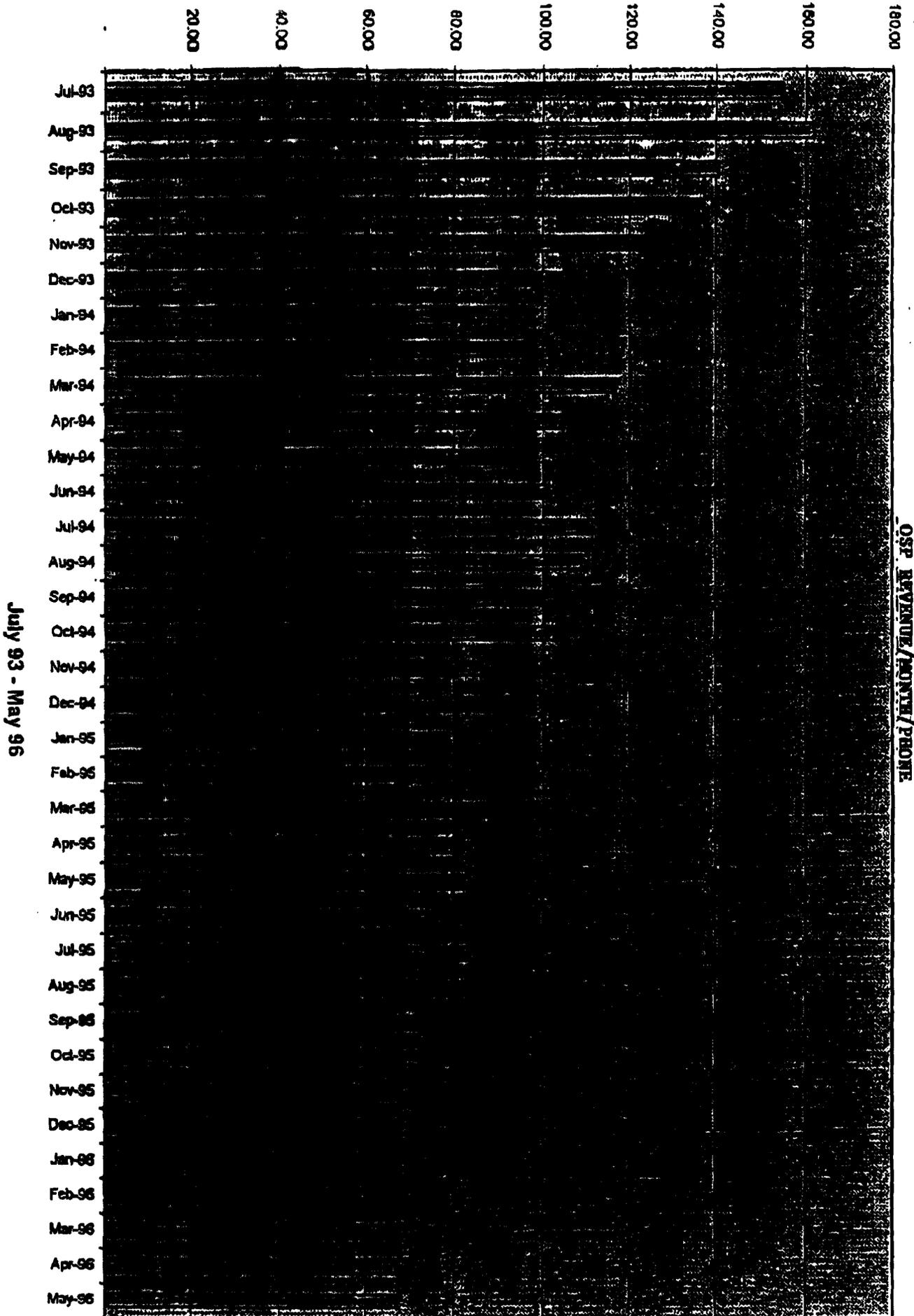
C. Douglas McKeever

C. DOUGLAS McKEEVER

Vice President - Finance

Communications Central Inc.
1150 Northmeadow Parkway, Suite 118
Roswell, Georgia 30076

OSP Revenue per Phone



July 93 - May 96